

(Washington, DC) - Rep. Herger today commented on House passage of the Protect America Act:

"I'm very pleased that the House has passed legislation giving our intelligence community the tools they want and need to monitor the international communications of suspected terrorists, and I am very concerned that the Democrat leadership in the House and Senate has continued to resist this common sense and necessary tool in the fight against terrorism. We know that the Terrorist Surveillance Program used since the September 11 terrorist attacks prevented new attacks on our homeland and has saved American lives. Without this capability, the nonpartisan Director of National Intelligence was greatly concerned that we wouldn't know about terrorist plots until it was too late. The Protect America Act will greatly assist in the war against radical jihadists."

By way of background, Congress enacted the Foreign Intelligence Surveillance Act (FISA) in 1978 to ensure that the U.S. can obtain foreign intelligence without violating the constitutional rights of U.S. citizens. FISA generally requires the President to obtain warrants from a specialized court (FISA Court) prior to, or shortly after, performing surveillance on U.S. persons suspected of communicating with suspected terrorists abroad. Because of the massive developments in technology over the past thirty years, however, it was unclear how some aspects of FISA apply to new technologies. The distinction between foreign and domestic surveillance is complicated by global telecommunications networks in which communications between foreigners may be routed through switches in the U.S., as well as by the increasing use of global wireless networks.

After the September 11 terrorist attacks, President Bush authorized the Terrorist Surveillance Program (TSP). Under the program, the National Security Agency (NSA) could conduct surveillance of international communications between someone in the United States and a suspected terrorist abroad, without first obtaining a search warrant in some circumstances. The Administration argued that the FISA process was too slow and cumbersome for some time-sensitive intelligence efforts. TSP reportedly helped to unveil and prevent terrorist attacks. After a lower court ruled in 2006 that TSP was unconstitutional, the Bush Administration discontinued TSP in January 2007 and allowed the FISA Court to monitor and approve requests to conduct surveillance of international communications between terrorists.

However, after the FISA Court rejected earlier this year a request to collect foreign intelligence on messages routed through U.S. communication carriers (such as the Internet), the Director of

National Intelligence (DNI) concluded that the new FISA guidelines were not sufficient. The DNI called on Congress to promptly modernize FISA to ensure our intelligence community can monitor terrorist communications in a timely manner. The Protect America Act provides a six month modernization of FISA, and Congress is expected to consider a long term reauthorization after Labor Day.